

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

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**ATATEKS FOREIGN TRADE LTD, JORDAN
and ATATEKS DIS TICARET A.S.,**

Plaintiffs,

-against-

**PRIVATE LABEL SOURCING, LLC
and SECOND SKIN, LLC,**

Defendants.
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Index No. 07 Civ. 6665 (HB)

**DECLARATION OF PHILIP A. BYLER, ESQ. IN SUPPORT OF MOTION FOR
PARTIAL SUMMARY JUDGMENT DISMISSING DEFENDANT SECOND SKIN, LLC**

PHILIP A. BYLER, ESQ. hereby declares subject to the penalties of perjury pursuant to 28 U.S. C. § 1746:

1. I am a member of the Bars of, among others, the States of New York and Ohio, the U.S. District Courts for the Southern and Eastern Districts of New York, the U.S. Courts of Appeals for the Second, Sixth, Eleventh and Federal Circuits, and the U.S. Supreme Court. I am the Senior Litigation Counsel to the firm of Nesenoff & Miltenberg, LLP, attorneys for the defendant Private Label Sourcing, LLC ("Defendant PLSL") and the defendant Second Skin, LLC ("Defendant Second Skin").

2. I submit this declaration in support of Defendants' motion, made pursuant to Rule 56 of the Federal Rules of Civil Procedure, for partial summary judgment dismissing the First and Second Causes of Action of the Amended Complaint insofar as they are asserted against Defendant Second Skin and dismissing in their entirety the Third, Fourth, Fifth, Sixth, and Seventh Causes of Action (which are asserted only against Defendant Second Skin). The purpose of this Declaration is to

~2~

identify the motion papers and to submit the pleadings and depositions in the summary judgment record.

3. As stated in the Notice of Motion, the following opposition papers are hereby being submitted: (i) this Declaration; (ii) the Declaration of Christine Dente; (iii) Defendants' Memorandum of Law In Support Of Motion For Partial Summary Judgment; and (iv) Defendants' Rule 56 Statement of Undisputed Facts For Partial Summary Judgment.

4. Attached as Exhibit A is a copy of the Amended Complaint.

5. Attached as Exhibit B is a copy of the Answer To Amended Complaint.

6. Attached as Exhibit C is the deposition testimony of Plaintiffs' representative Ilhan Arslan.

7. Attached as Exhibit D is the deposition testimony of Plaintiffs' representative Ihsan Arslan.

8. Attached as Exhibit E is the deposition testimony of Defendants' representative Christine Dente.

9. Attached as Exhibit F is the deposition testimony of Bahar Akbulut.

10. Attached as Exhibit G are all the purchase orders from Defendant PLSL that were produced by Plaintiffs in this litigation. They were marked as Exhibit 1 to the deposition of Ihlan Arslan and also as Exhibit 502 at the deposition of Christine Dente.

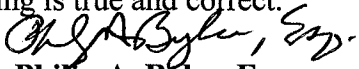
11. For the reason stated in the accompanying Memorandum Of Law In Support Of Motion For Partial Summary Judgment, Defendants' motion should be granted. This action was brought as a goods sold and delivered case, and it should remain as such because Plaintiffs do not have evidence

~3~

to make it into something bigger that encompasses Defendant Second Skin.

I declare under the penalty of perjury that the foregoing is true and correct.

**Dated: New York, New York
June 3, 2008**


____/s/____ **Philip A. Byler, Esq.**____
Philip A. Byler, Esq.